

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

THE DEPARTMENT OF REVENUE)	
OF THE STATE OF MONTANA,)	
)	DOCKET NO: PT-1997-59
Appellant,)	
)	
-vs-)	<u>OPINION and ORDER</u>
)	
CONSTANCE M. NELSON,)	
)	
Respondent.)	

The State Tax Appeal Board elected to hear the above entitled appeal on the record, pursuant to Section 15-2-301(2), MCA. Both parties were provided copies of the transcript of the Sheridan County Tax Appeal Board hearing and were given thirty (30) days to submit additional statements if they wished to do so. Both parties responded with additional statements which are made part of the record. Neither party notified this Board that statements had not been received from the opposing party.

The subject property involved in this appeal is described as follows:

Improvements only on Lot 23 Block 1,
Davis Addn to Plentywood, Sheridan County,
Montana.

For the 1997 tax year, the Department of Revenue

(hereinafter DOR) appraised the subject property at a value of \$4,798 for the land and \$59,102 for the improvements. The taxpayer filed a DOR form AB-26 requesting a review of the valuation and checked the box on the form indicating "using the information I have submitted." An appraiser for the DOR then visited the property and increased the value of the improvements for 1997 to \$64,402 as a result of that inspection. The land value was not changed. The taxpayer appealed to the Sheridan County Tax Appeal Board requesting a reduction in value to \$39,330 for the improvements. The county board adjusted the value of the improvements to \$47,276, and the DOR then appealed that decision to this Board.

The taxpayer, represented by Mr. Nelson, contended before the local tax appeal board that the subject house was built in approximately 1920. It was moved to Plentywood in approximately 1972. He stated that in 1996 the house and land were appraised at \$47,776. Mr. Nelson provided the local board with a copy of property listed for sale in Williston, North Dakota as evidence of market values for homes in the area. He argued that based on the asking prices shown on that exhibit the DOR is "really inflating the value of houses here." Mr. Nelson stated that from 1995 there has been nothing done to the house to change its physical characteristics.

The taxpayer, in response to this hearing on the

record, submitted nothing other than a letter to this Board stating that she was satisfied with the local board decision and that she still fails to "consider an almost doubling of appraised value from one year to the next as a fair adjustment."

The DOR represented by appraiser Steven Sprague presented the method used to appraise the property to the local tax appeal board. He submitted the property record card (Ex A), a copy of the form AB-26 (Ex B), a copy of the Montana Cost/Comparable sheet (Ex C), and a copy of the Condition, Desirability, and Utility (CDU) formula (Ex D) for the subject property.

He testified that until the taxpayer filed the form requesting a review of the appraisal he had not been able to do an internal inspection of the home. Based on his internal inspection he noticed that "there was some things that had changed since the last appraiser had been in the house." He changed the total number of rooms from 7 to 8, increased the number of bedrooms from 3 to 5, changed the number of bathrooms to 2 from 1 and **2**, added a free standing fireplace and built in items there were not previously considered by the DOR in the valuation of the structure. He also observed that the attached garage is now used as a part of a day care center being operated in the house.

Mr. Sprague testified that the value determined from the market approach was adopted as the market value by the DOR.

He referred to exhibit C in explaining that the indication of sales of property selected as comparable to the subject produced the overall value indication. He stated that "the first three are the best comparable properties" and explained the comparability index points assigned to each of the properties listed. He pointed out the first comparable listed has a comparability index of 40, meaning "there was very little that was adjusted to that one to match the subject property and you can see that there's a sales date of 4 of '94 and that property sold originally for \$60,000." (Tr pg 12)

Mr. Sprague argued with the taxpayer comparison of the subject property to values of homes for sale in the Williston, North Dakota market. He stated that it is a "totally different market than what we have. And, in Plentywood, maybe, we're a little higher priced because we don't have as many houses to sell as what they've got over there...." (Tr pgs 12-13)

Mr. Sprague explained to the local board that the 1997 value is reflective of the reappraisal value as of January 1, 1996 data. He stated, "In '96, the old value, what you're looking at, was the old sales market value saying that in 1992, when that sales ratio was put in, or market model, the sales we

had at that time were saying that it was worth that amount of money and our sales prices have changed since then." (Tr pg 15)

He noted that the previous appraisal cycle value for this property was based on the cost approach to value. The subject house is appraised by the DOR as a quality grade five minus (5-) with a fair CDU rating.

Mr. Sprague responded to this Board with additional information in support of the DOR appeal of the local board decision. He directed this Board to the fact that comparable sale number one on exhibit C is the purchase by the taxpayer of the subject property. He submitted the verification sheet that was completed by Connie Nelson on May 12, 1994 and returned to the DOR. The form indicates that the sale was verified by Tully Tryan as a valid sales transaction on July 11, 1994.

The DOR has valued the subject property using the market approach to value. Comparable property number one on exhibit C is in fact the subject property, meaning the computer selected that sale as being the most comparable. What is not explained by the DOR is why the cost data and the physical characteristics of the subject and comparable number one vary.

The Board can only conclude that when the subject property was revalued following the filing of the AB-26 form, the characteristics of the property in the sales history file were not adjusted as well. The computer is trying to adjust the

sale of comparable number one to the subject (the same property) and in doing so trends the 1994 sale not only for time but for differences in the property as well. These are differences that apparently do not exist. Comparables number 3,4,and 5 are all homes of a lower quality grade and other varying physical characteristics than the subject. Comparable number five is adjusted by such a high percentage as to make its use marginal.

It is the opinion of this Board that the value determined from the cost approach to value better represents the market value of this property as of January 1, 1996 and applied in accordance with the current appraisal cycle for 1997. The property was purchased in 1994 for \$60,000 as verified by the taxpayer. That sale was considered an arms-length transaction by the DOR. The DOR did not testify as to what trending was applied to account for the time span between the date of sale and the valuation date of January 1, 1996.

The representative of the DOR explained at the local board hearing that the increase in value did not occur in one year as the taxpayer believed it to be. He stated that it was in fact a change from the valuation data based on 1992 information utilized in the prior cycle to the cost and market data based on 1996 utilized in the current appraisal cycle that started in tax year 1997.

Based on a review of the record before the Sheridan County Tax Appeal Board and the statements submitted by the DOR and the taxpayer, the Board finds that the DOR presented sufficient evidence to support the position that the Sheridan County Tax Appeal Board's decision was erroneous and therefore sustained the burden on appeal. For the foregoing reasons, the above appeal is hereby granted in part and denied in part and the decision of the Sheridan County Tax Appeal Board is reversed.

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IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Sheridan County by the Assessor of said County at the value of \$4,798 for the land and \$57,030 for the improvements as determined by the DOR cost approach to value.

This opinion constitutes the Board's Findings and Conclusions herein.

DATED this 22nd day of December, 1998.

BY ORDER OF THE
STATE TAX APPEAL BOARD

PATRICK E. McKELVEY, Chairman

(S E A L)

GREGORY A. THORNQUIST, Member

NOTICE: You are entitled to judicial review of this order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days after the service of this Order.